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In re Application of ATTALI et al
U.S. Application No.: 10/565,208
PCT Application No.: PCT/FR04/01853
Int. Filing Date: 15 July 2004
Priority Date Claimed: 23 July 2003
Attorney Docket No.: 017346-0190
For: METHOD OF LOCATING MOBILE
COMMUNICATING OBJECTS . . .

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DECISION

This is in response to the "Reply to Decision" filed 19 December 2007, which is being treated as a renewed petition under 37 CFR 1.181.

BACKGROUND

On 15 July 2004, applicant filed international application PCT/FR04/01853, which claimed priority of an earlier France application filed 23 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 03 March 2005. The thirty-month period for paying the basic national fee in the United States expired on 23 January 2006.

On 20 January 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 03 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 29 June 2006, applicant filed a request for status under 37 CFR 1.42 along with an executed declaration.

On 09 August 2006, this Office mailed a decision dismissing the 29 June 2006 request for status.

On 18 May 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909).

On 17 July 2007, applicant filed a petition under 37 CFR 1.181 and a renewed request for status under 37 CFR 1.42.

On 19 July 2007, this Office mailed a decision dismissing the 18 July 2007 petition.

On 20 September 2007, applicant filed a renewed petition under 37 CFR 1.181.

On 24 October 2007, this Office mailed a decision dismissing the 20 September 2007 petition.

On 19 December 2007, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

I. Renewed Petition Under 37 CFR 1.181

The petition states that the decision mailed 09 August 2006 was never received.

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that s/he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has previously satisfied items (1) and (2) above.

With regard to item (3) above, petitioner has supplied a docket record listing responses due to the USPTO on 09 October 2006 for all cases handled by the representative's firm. Such docket record illustrates the absence of any listing of a response due to a petition decision for the present application. Thus, it can be concluded with reasonable certainty that the decision mailed 09 August 2006 was never received.

II. Renewed Request for Status Under 37 CFR 1.42

The request for status states that joint inventor Isabelle Attali is deceased.

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 17 July 2007 is in compliance with 37 CFR 1.497.

CONCLUSION

For the reasons set forth in §I above, the renewed petition under 37 CFR 1.181 is GRANTED.

For the reasons set forth in §II above, the renewed request for status under 37 CFR 1.42 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 15 July 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 17 July 2007.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

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